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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,539	04/15/2004	Masanori Takita	252009US3	6545
22850	7590	07/11/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MORGAN JR, JACK HOSMER	
			ART UNIT 3782	PAPER NUMBER
			NOTIFICATION DATE 07/11/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/824,539

**Applicant(s)**

TAKITA ET AL.

**Examiner**

JACK H. MORGAN JR

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-8 and 15-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 2-8 and 15-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 17 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 April 2008 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushi (JP 49-12112). Fukushi discloses a gusset bag with a pair of main faces (4) and a pair of inwardly folding side faces (See Fig 6, 1) with a deformable wire like member (3) having two vertical wire-like members (3') attached exclusively along a lateral edge of the bag, as well as a lateral wire-like member attached to the side face to form an inverted angular "U" along the top of the side face (See Fig 6).

3. Claims 2-4 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Shore (US 3,462,067). Shore discloses a gusset bag (Fig 1) having a pair of main faces (17) and a pair of inwardly folding side faces (perpendicular to 17) having a deformable vertical wire-like member (30) in a hem seal (25) formed by heat sealing (20, Col 2 lines 17-20). Shore further discloses a space between the wire-like member and the fused portion of the joint (note Fig 3, small space directly to the right of 30, between the two panels of 20, and to the left of the fused portion formed by 24). Examiner notes that to the degree to which applicant's claims define the upper portion of the gusset bag, Shore discloses the wire-like members only in said upper portion (ie, not on the bottom panel and seal 16).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shore (US 3,462,067) in view of Yuter (US 6,238,090). Shore discloses all the limitations of the claim except for the main faces provided with a cutting guide line along which the bag is adapted to be cut off, the vertical wire like members being adapted to be cut off along the cutting line. Yuter discloses a bag of similar structure to that of Shore having a

cutting line (16) above which an upper portion of the bag (8) is capable of being cut off in order to make the bag smaller and thus more manageable for retrieving items from. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the gusset bag of Shore with a cutting guide line as taught by Yuter in order to make the bag smaller as items are removed from it. The rods of Shore are capable of being cut during this modification.

5. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shore (US 3,462,067) in view of Yutaka (JP 08-244795). Shore discloses all the limitations of the claim except for a projection for creating a level difference is provided across the centerline of each of the side faces below an upper end output opening. Yutaka discloses a gusset bag with a projection (5) which creates a level difference provided in order to assist in the opening of the bag (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the bag of Shore with the projection of Yutaka in order to make it easier to open the bag.

In regards to claim 17, Shore discloses all the limitations of the claim except for a rectangular projection which extends along the side faces of the bag for maintaining a rectangular shape of the bag upon being opened. Yutaka discloses a gusset bag with a rectangular projection (5) maintains the bag in a rectangular shape as it assists in the opening of the bag (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the bag of Shore with the projection of

Yutaka in order to make it easier to open the bag, and maintain the opening in a rectangular shape, by reinforcing the sidewalls.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Cvacho (US 3,269,642). Fukushi discloses all the limitations of the claim except for each of the side faces having a vertical fin-like rib projecting on the outer side thereof along the centerline. Cvacho discloses a gusset bag of similar structure to the bag of Fukushi (Fig 10) having a side face formed with a central fin-like rib in order to form the bag with an outward folding gusset. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the gusset bag of Fukushi with a fin-like rib in the center of the side panel as taught by Cvacho in order to form the gussets with an outward closing fold.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of JP 2000-326996. Fukushi discloses all the limitations of the claim except for the wire-like member being covered with a resin. JP 2000-326996 discloses a bag formed of sheet material (22a and 22b) comprising a plastically deformable wire-like member (11) comprising an inner wire member (14) surrounded by a resin (15) and attached along a lateral edge thereof, disposed in a folded back hem seal (See Fig 6), the wire being covered in a resin preventing the sharp edges of the wire from puncturing the bag while still having the added strength of a wire, as opposed to merely a resin folding member.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Ashton (US 3,228,584). Fukushi discloses all the limitations of the claim except for the bag being a detergent package packed with granular detergent. Ashton discloses a bag of similar structure with granular detergent (Col 2, lines 43-45) in it in order to hold detergent. It would have been obvious to place granular detergent in the bag of Fukushi as taught by Ashton in order to hold detergent.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Ichiro (JP 02-242750). Fukushi discloses a gusset bag with a pair of main faces (4) and a pair of inwardly folding side faces (See Fig 6, 1) with a deformable wire like member (3) having two vertical wire-like members (3') attached exclusively along a lateral edge of the bag, as well as a lateral wire-like member attached to the side face to form an inverted angular "U" along the top of the side face (See Fig 6). To the extent to which Fukushi may not be read as having wire-like members attached exclusively along each lateral edge of the gusset bag, Ichiro discloses a bag having only vertical wire-like members (Fig 1, 15) along a top portion of the bag, which have the added advantage of allowing a twist closure to the bag. Therefore it would have been obvious to replace the three wire-like members of Fukushi with the two wire-like members of Ichiro in order to allow a twist type closure, as well as saving material.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Ichiro (JP 02-242750) as applied to claim 4 above and further in view of Cvacho (US 3,269,642). Fukushi as modified above discloses all the limitations of the claim except for each of the side faces having a vertical fin-like rib projecting on the outer side thereof along the centerline. Cvacho discloses a gusset bag of similar structure to the bag of Fukushi (Fig 10) having a side face formed with a central fin-like rib in order to form the bag with an outward folding gusset. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the gusset bag of Fukushi with a fin-like rib in the center of the side panel as taught by Cvacho in order to form the gussets with an outward closing fold.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Ichiro (JP 02-242750) as applied to claim 4 above and further in view of JP 2000-326996. Fukushi as modified above discloses all the limitations of the claim except for the wire-like member being covered with a resin. JP 2000-326996 discloses a bag formed of sheet material (22a and 22b) comprising a plastically deformable wire-like member (11) comprising an inner wire member (14) surrounded by a resin (15) and attached along a lateral edge thereof, disposed in a folded back hem seal (See Fig 6), the wire being covered in a resin preventing the sharp edges of the wire from puncturing the bag while still having the added strength of a wire, as opposed to merely a resin folding member. It would have been obvious to one of ordinary skill in the



art at the time of invention to create the bag of Fukushi as modified above with the wire being resin coated in order to prevent sharp edges of the wire from puncturing the bag.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushi (JP 49-12112) in view of Ichiro (JP 02-242750) as applied to claim 4 above and further in view of Ashton (US 3,228,584). Fukushi as modified above discloses all the limitations of the claim except for the bag being a detergent package packed with granular detergent. Ashton discloses a bag of similar structure with granular detergent (Col 2, lines 43-45) in it in order to hold detergent. It would have been obvious to place granular detergent in the bag of Fukushi as modified above as taught by Ashton in order to hold detergent.

### ***Response to Arguments***

13. Applicant's arguments filed 28 April 2008 have been fully considered but they are not persuasive. Applicant argues that Fukushi does not disclose a wire member attached exclusively along the lateral edge of the bag. Examiner notes (as newly set forth above) that Fukushi does disclose two wire like members (3') attached exclusively along the lateral edge of the bag, and that Fukushi further discloses a connecting wire-like member attached along the top portion of the bag. No structure is claimed by applicant which prevents this broad reading of the Fukushi reference, especially in view of applicant's Figure 7 embodiment. Also note the new 103(a) rejection with Ichiro (JP 02-242750) as responding to this argument.

14. Applicant further argues that Shore does not disclose a wire-like member attached exclusively along an upper portion of the bag, however applicant does not set forth in the claims any structure for the "upper portion" of the bag. As such, Shore has been read (as noted above) to have a wire-like member along only the upper portion of the bag, as it is not in the bottom seal and bottom panel.

As such, applicant's arguments are not persuasive.

### ***Conclusion***

15. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACK H. MORGAN JR whose telephone number is (571)272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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